UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

ANDREW H. STEVENS	:	**Case No. 2:20-cv-1230**
	:	
Plaintiff,	:	**Judge Marbley**
	:	
-vs-	:	**Magistrate Deavers**
	:	
CITY OF COLUMBUS, OHIO,	:	
	:	**MEMORANDUM IN RESPONSE TO**
Defendant.	:	**DEFENDANTS' MOTION FOR**
	:	**EXTENSION OF TIME TO RESPOND TO**
		PLAINTIFFS' MOTION FOR
		PRELIMINARY INJUNCTION

Plaintiffs would typically not respond to a requested extension; however, Defendants' unexplained insistence on two additional weeks is entirely unwarranted. Relevant considerations are as follows:

1. Defendants' request would abrogate the April 21, 2020 preliminary injunction hearing date set by this Court and agreed to by all parties.

2. Defendants fail to explain which "restriction on Ohio residents" enacted since March 16 has caused their delay in writing a brief, much less *how* the restriction prevents prompt response. The City's obligations and work continues unabated, as demonstrated by Defendants' March 11 insistence that Plaintiffs (and others) take "immediate" and "prompt" action to avoid criminal prosecution. See March 11, 2020 *Non-Compliance Warning Letter* from Defendant Tim Noll, attached.

3. The "inability to meet in-person" is no excuse for delay: in-person meetings are not "necessary" for "affidavits" because this Court's Local Rules accept sworn declarations with electronic signatures and without notarization.

4. Contrary to the City's Motion, "Plaintiffs' property" is not the issue in this case: the issue is that the City's draconian and vague delegations of authority over Columbus homeowners' private property violate Due Process on their face, not solely as-applied to Plaintiffs.

5. While the City simply contacted Plaintiffs on the day its response was due, Plaintiffs, even then, as they have consistently done, offered the City more time to respond on the condition that it simply

abstain from enforcing its unconstitutional requirement(s) that landscaping on private residential property within the City be either "compatible" or "appropriate," as those requirements are articulated in Sections 3116.04 through 3116.13 of the City's Code.

6. However, the City insists upon devoting its resources toward aggressive enforcement of the foregoing Landscaping Compatibility Mandate, even during these difficult times, rather than adhering to this Court's schedule and/or the expeditious resolution of its citizens constitution rights. See, *inter alia,* March 11, 2020 *Non-Compliance Warning Letter,* attached.

Accordingly, this Court should deny the City's request for a protracted briefing schedule and abrogation of this Court's April 21 hearing on Plaintiffs' Preliminary Injunction. Were this Court to provide such delay, then Plaintiffs respectfully request that this Court enjoin the City from endangering homeowners' right in the interim, ordering temporary relief consistent with the second and third Prayers for Relief enumerated in Plaintiffs' Verified Complaint (Doc. 1, PageID 23), which, in sequence, request as follows:

> Issue a preliminary and permanent injunction prohibiting Defendants from enforcing City of Columbus Codified Ordinance Sections 3316.04, 3316.09, 3316.11(2), and 3316.13(A) against Plaintiffs or otherwise, insofar as those sections regulate landscaping

> Issue a preliminary and permanent injunction prohibiting Defendants from enforcing or relying on City of Columbus Codified Ordinance Sections 3316.04, 3316.11(2), and 3316.13(A) so as to prosecute, fine, imprison, or otherwise punish Plaintiffs and others, insofar as those sections regulate landscaping.

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Respectfully submitted,

/s/ Maurice A. Thompson
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served on Defendants, through email to Defendants' Counsel, on **March 31, 2020**

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Respectfully submitted,
/s/ _Maurice A. Thompson
Maurice A. Thompson (0078548)

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